

(Continued from Third page.)

various and greatly varying conditions. He does not go so far as to question the constitutionality of any one of the processes by which the Louisiana territory, Florida, Texas, and Alaska were successively acquired and brought in under the flag. But in reviewing the history of previous annexations, he tries to show that in each case the constitutional principles involved were quite different from those involved in the proposed annexation of Hawaii, so radically different, in fact, as to mark the distinction between what is constitutional and what is unconstitutional.

In the absence of any constitutional provision either permitting or prohibiting the acquisition of new territory by treaty or otherwise, Judge Cooley looks to the precedents for his rule of interpretation. The first annexation was that by the Louisiana purchase. Mr. Jefferson saw very clearly the vast importance and immeasurable advantages of the purchase, but was so strongly convinced that the Constitution made "no provision for our holding foreign territory, and still less for incorporating foreign nations into our Union," that he thought the purchase should be made first, when the opportunity was ripe, and that it should be confirmed afterward by a retroactive amendment. He went ahead, despite his constitutional scruples; and so obvious to every mind was the supreme wisdom of the transaction, that, after the annexation was effected, Mr. Jefferson "ceased to insist upon the necessity for amendment of the Constitution." Here, then, is the original precedent for the general principle of extension of territory by purchase or otherwise. It is not in the Constitution, but the man who to-day should question the constitutionality of the Louisiana purchase would justly be regarded as crazy. Judge Cooley is not crazy; he contents himself with pointing out that "every foot of the territory acquired in the Louisiana purchase was not only needed to provide for the natural and inevitable expansion of the settlement then going on in the territory of the United States, but it also fitted perfectly into the American system." The Louisiana territory was contiguous to the United States as then constituted; while Hawaii is in the Pacific, separated from us by a broad stretch of ocean. The Louisiana territory was another nation's property, and we bought it, and paid for it. Hawaii is a sovereign, independent power. It cannot sell itself, and we cannot purchase it.

The Florida purchase was similar to the Louisiana purchase. "Here, again," says Judge Cooley, "was a case of territory bordering upon that of the Union in the hands of a foreign nation, but needed to provide for the gradual expansion of the population of the Union, and certain in time to become property of the Union, either peacefully or by the lawless action of those who could covet it, and who would seem to the people of the United States to be its natural and proper proprietors. It was purchased for incorporation into the Union in the ordinary and regular way." We italicize one phrase in the foregoing passage, because it embodies a singular argument as coming from an eminent constitutional expounder, engaged in exhibiting the points of difference between the constitutional annexation of Florida and the unconstitutional annexation of Hawaii. It is the argument of manifest destiny, and since it has been advanced by Judge Cooley it becomes even more than ever before worth remembering.

Texas was acquired under radically different circumstances. It had declared its independence of Mexico and we had recognized it as an independent State. Like Hawaii, it made, through its *de facto* Government, overtures for annexation to the United States. These were accepted although the acceptance involved us in war with Mexico; and by a somewhat shady and circuitous process of legislation and executive action, the union was effected. Nobody regrets it now; nobody expends any indignation upon the method by which it was accomplished. But Judge Cooley points out again that the Texas case differs from the Hawaiian case, because "its acquisition brought no incongruous element into the Federal Union," because "the population was homogenous with our own, and its institutions were similar to those which prevailed in the other States of the Union," and because it "bordered upon States already admitted to the Union." Hawaii, like Texas, is an independent State, with political institutions similar to our own, seeking admission to the Federal Union. But it is not contiguous, not immediately essential to the expansion of our population; and, therefore, according to Judge Cooley's implied argument, its annexation would be unconstitutional.

The next and last case was Alaska, acquired from Russia by treaty of purchase. This precedent puzzles the eminent constitutionalist not a little, but he faces the difficulties boldly. The doctrine of contiguity as a necessary element of constitutional annexation falls to pieces here. Five or six hundred miles of foreign territory intervene between Alaska and the nearest point in the United States. The seal islands, most valuable of the islands annexed by the treaty of 1867, are about as far from Sitka as Hawaii is from San Francisco. The direct sailing distance from San Francisco to Attou Island is nearly double the direct sailing distance to Honolulu. The annexation of Alaska brought in an incongruous population of twenty thousand natives, and their wishes were not consulted at the time or subsequently. No attempt was made to ascertain whether they desired to come in under the American flag, or to remain subject to Russia. The immense territory acquired by the Alaska purchase was not needed for the natural expansion of our population. Manifest destiny did not point to Alaska as

(Concluded on Sixth Page.)

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